

REMARKS

Claims 1, 5, 10 - 12, and 21 have been amended. No new matter has been introduced with these amendments, all of which are supported in the application as originally filed. Claims 16 - 19 have been cancelled from the application without prejudice (and Claims 6 and 20 were previously cancelled from the application without prejudice.) Claims 1 - 5, 7 - 15, and 21 remain in the application.

Applicant is not conceding that the subject matter encompassed by the claims as presented prior to this Amendment is not patentable over the art cited by the Examiner, and claim amendments and cancellations in the present application are directed toward facilitating expeditious prosecution of the application and allowance of the currently-presented claims at an early date. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by the claims as presented prior to this Amendment and additional claims, in one or more continuing applications.

I. Rejection under 35 U. S. C. §101

Paragraph 4 of the Office Action dated May 5, 2011 (hereinafter, “the Office Action”) states that Claims 1 - 5, 7 - 15, and 21 are rejected under 35 U. S. C. §101 as being directed to non-statutory subject matter. While Applicant does not acquiesce in the correctness of this rejection, Applicant has amended independent Claims 1 and 21 herein in the interest of progressing rapidly to issuance. More particularly, these independent claims are amended to

recite “using a processor of a computer” in at least one claim element. Accordingly, it can be seen that the claims do not recite purely mental steps, and are tied to a particular apparatus. Applicant therefore respectfully requests withdrawal of the §101 rejection.

II. Rejection under 35 U. S. C. §103(a)

Paragraph 6 of the Office Action states that Claims 1 - 5, 7 - 15, and 21 are rejected under 35 U. S. C. §103(a) as being unpatentable over U. S. Patent Publication 2003/0177025 to Cerkendall in view of U. S. Patent 6,510,380 to Curatolo. This rejection is respectfully traversed with reference to the claims as currently presented.

With regard to an obviousness rejection under 35 U. S. C. §103, MPEP §2143.03 – which is titled “All Claim Limitations Must Be Considered” and which is found within Section MPEP §2143, titled “Examples of Basic Requirements of a *Prima Facie* Case of Obviousness” – quotes *In re Wilson*, 165 USPQ 494, 496 (C.C.P.A. 1970), which held that “All words in a claim must be considered in judging the patentability of that claim against the prior art.” (emphasis added). In addition, MPEP §2141.02(I) states “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is ... whether the claimed invention as a whole would have been obvious” (citations omitted; emphasis original).

As part of the “all words” analysis that is required according to the above-quoted MPEP §2143, Applicant respectfully points out that the animal passports recited in Claim 1 are not

directed toward tracking transfers of a single animal. Instead, the claim language explicitly recites “creating an animal passport to represent a transfer of a group of animals ..., the group comprising at least two animals ...” (Claim 1, lines 3 - 4, emphasis added). See also the preamble of Claim 1, which recites “A method of tracking transfers of groups of animals with animal passports ...” (emphasis added).

It is noted that para. [0395] of Cerkendall recites

... Changes in ownership of the live animal [note, referring to a single animal] are recorded as events for both the seller and the buyer where an event detail identifies the buyer and seller, respectively. In this manner, the ownership of the live animal [note, referring to a single animal] can be traced, and events and events details from every owner can be accrued. (emphasis added)

Applicant has made a sincere effort to emphasize the groups aspect of his animal passports in the claim language, because tracking animals in a group is not the same as tracking a single animal. In particular, tracking the transfer of a group of animals is not the same as recording events for a change in ownership of a single animal as discussed by Cerkendall in para. [0395]. For example, when a particular group of animals is transferred from a first owner to a second owner, and then some of the animals from that group are transferred to a third owner while others are not, the tracking of the animals as a group becomes more complicated than merely tracking one animal as it is transferred among owners.

This transfer of animals in groups of changing sizes is illustrated in Applicant’s Fig. 1, and the animal passports that document this type of group transfer are shown in Applicant’s Figs. 2 -

3. Note, in particular, that Fig. 3B shows a current transfer of a group of 87 animals (see “Number of animals transferred”, near the upper left), whereas prior transfers included a group of 60 animals (see reference number 391) and a group of 27 animals (see reference number 392). See also p. 16, lines 19 - 24 of Applicant’s specification, where this information is discussed.

Turning now to the rejection of Claim 1, the Office Action cites para. [0032] of Cerkendall with reference to the “creating an animal passport ...” claim element, stating “discusses transferring animal data for a group of animals from one database to another and communicating information concerning the livestock”. Office Action, carryover paragraph on pages 3 - 4. While events of Cerkendall may apply to groups of animals, and animal data may be transferred from one database to another, this is not the scenario to which Claim 1 is directed, as may be seen when considering Claim 1 as a whole as required by MPEP §2141.02(I).

The Office Action cites para. [0020] of Cerkendall with reference to the “assigning a unique passport identifier ...” claim element, stating “via it is desirable to automate the identification and data entry ...”. Office Action, page 4, lines 3 - 7. While it may be desirable to automate identification and data entry, this broad and general statement of Cerkendall does not disclose assigning a unique passport identifier to a passport that represents the transfer of a group of animals, particularly in view of the “repeating ...” claim element which specifies repeating the “assigning ...” claim element for subsequent transfers of animals in groups that are not always the same animals (i.e., “wherein at least one subsequent transfer contains different animals ...”; see

Claim 1, lines 13 - 15). Accordingly, the discussion from para. [0020] is insufficient when considering Claim 1 as a whole as required by MPEP §2141.02(I).

The Office Action cites paras. [0329], [0135], [0134], and **Fig. 40** of Cerkendall with reference to the “recording ...” claim element. Office Action, page 4, lines 8 - 14. The Office Action states that para. [0329] “discusses the number of animals in the group”, para. [0135] “discusses identification or origin and transfer location”, para. [0134] “discusses information identifying animals in the group”, and **Fig. 40** “discusses identifying the entity for transfer”. *Id.* Applicant respectfully submits that the cited text from para. [0329] as well as step 4900 of **Fig. 40** pertains to transferring data for a group of animals (“animal data”, “animal records”), not the animals themselves. Applicant also respectfully submits that paras. [0134] - [0135] are discussing a single transfer of a group of animals. When Applicant’s “recording ...” claim element is considered in view of Claim 1 as a whole as required by MPEP §2141.02(I), and particularly in view of the “repeating ...” claim element which specifies repeating the “recording ...” claim element for subsequent transfers of animals in groups that are not always the same animals (i.e., “wherein at least one subsequent transfer contains different animals ...”; see Claim 1, lines 13 - 15), it can be seen that the cited text and figure from Cerkendall do not disclose what Applicant has claimed.

The Office Action cites paras. [0132] and [0029] of Cerkendall with reference to the “repeating ...” claim element. Office Action, page 4, lines 15 - 20. The Office Action states that para. [0132] “discusses repeating steps” and para. [0029] “discusses complete source verification

and performance databases for all key livestock events”. *Id.* Claim 1 does not merely recite “repeating”, but recites repeating particular claim elements, each of which recites a number of specific details, and thus the mere mention in para. [0132] of “repetitive events” is deemed insufficient to disclose the particular recitations of Claim 1 when considering all the words recited therein, as required by the above-quoted MPEP §2143.03, and when considering Claim 1 as a whole as required by MPEP §2141.02(I). With reference to para. [0029], the reference to “complete source verification” provides no teaching, or any suggestion, of the particular way of representing a sequence of transfers which Applicant has explicitly recited in the “repeating ...” claim element. That is, “complete source verification” fails to teach or suggest “... the animal passport created to represent each subsequent transfer also records the unique passport identifier assigned to the animal passport created to represent the next-preceding transfer ...” (see Claim 1, lines 15 - 18). Accordingly, it can be seen that Cerkendall does not disclose Applicant’s “recording ...” claim element when considering all the words recited therein as required by MPEP §2143.03 and when considering the language of Claim 1 as a whole as required by MPEP §2141.02(I).

Applicant respectfully submits that Curatolo fails to remedy the above-noted defects of Cerkendall. Accordingly, even if, *arguendo*, a combination of Cerkendall and Curatolo could be made and one of ordinary skill in the art was motivated to attempt it, any such combination would fail to yield Applicant’s Claim 1 when considering all the words and the claim as a whole. Independent Claim 1 is therefore deemed patentable over the references as currently presented. Dependent Claims 2 - 5 and 7 - 15 are deemed patentable at least by virtue of the patentability of

Claim 1 from which they depend.

Independent Claim 21 is amended herein to recite claim language similar to that which is discussed above with reference to Claim 1, and Claim 21 is therefore deemed patentable over the references in view of the same arguments presented above.

Furthermore, with reference to the Office Action analysis of Claim 21, Applicant notes that the Office Action uses an obsolete version of Claim 21, and therefore fails to discuss, *inter alia*, the “each group comprising at least two animals” aspect currently recited on lines 3 - 4 of Claim 21. Office Action, page 13, line 6 - page 14, penultimate line. Applicant also notes that the cited para. [0237] explicitly and repeatedly refers to “an animal”, in the singular, and a “discrete transaction against an animal” is not the same as the transfer of groups of animals which Applicant has explicitly recited in Claim 21. Nothing from the discussion in the cited para. [0027], which pertains to different entities having separate databases, discloses the transfer of groups of animals as recited in Claim 21. The cited **Abstract** explicitly refers to individual item data – that is, data for an individual animal – and this is clearly not the same as the claim elements pertaining to groups of animals as recited in Claim 21. The cited para. [0131] lists a variety of different types of events, which include “Origin” as noted in the Office Action, but there is no teaching or suggestion that this applies to groups of animals being transferred as groups, where animal passports reflect these group transfers and explicitly include a transfer where the group of animals is different (“... at least one subsequent group contains at least one animal different from the animals in the group of a next-preceding transfer ...”; see Claim 21, lines 7 - 10). The cited **Fig.**

63 does indeed display various types of data that can be recorded, but there is no teaching or suggestion of the particular type of animal passport data Applicant has recited, where the groups of animals are different in at least one transfer.

In view of the above, the Examiner is respectfully requested to withdraw the §103 rejection of all claims as currently presented.

III. Conclusion

Applicant has made a sincere effort to place the currently-presented claims in condition for allowance. Accordingly, Applicant respectfully requests reconsideration of the claims as currently presented, and allowance of the currently-presented claims at an early date. The Examiner is requested to contact the undersigned Applicant's Attorney if deemed useful to advancing the prosecution of the application.

Respectfully submitted,

/Marcia L. Doubet/

Cust. Nbr. for Corr.: 25260
Phone: 407-343-7586
Fax: 407-343-7587

Marcia L. Doubet
Attorney for Applicant
Reg. No. 40,999